

E-filing

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FILED
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 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

C07-04801

JL

ALLANA OLIPHANT, an individual,)
 Plaintiff,) Case No.
 v.)
) COMPLAINT
)
 KAISER PERMANENTE GROUP LONG)
 TERM DISABILITY PLAN; KAISER)
 FOUNDATION HEALTH PLAN, INC., in its)
 capacity as Plan Administrator,)
 Defendants.)
)
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Plaintiff, ALLANA OLIPHANT, alleges as follows.

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GO 44 SEC. N
 NOTICE OF ASSIGNMENT
 TO MAGISTRATE JUDGE SENT
 28

JURISDICTION

2 1. This is an action for equitable relief and for benefits under a group long-term disability
3 insurance policy. Plaintiff's claims for relief arise under the Employee Retirement Income
4 Security Act of 1974, 29 U.S.C. Sections 1001 et seq. (hereafter, "ERISA"). This Court has
5 subject matter jurisdiction of this action under 29 U.S.C. § 1132 and 28 U.S.C.
6 § 1331.

INTRADISTRICT ASSIGNMENT

8 2. A substantial part of the events or omissions which give rise to plaintiff's claims occurred
9 in the County of Contra Costa, California.

FIRST CLAIM FOR RELIEF

[for benefits due under the defendant ERISA plan]

12 3. Defendant Kaiser Permanente Long Term Disability Plan (hereafter, the "Plan") is an
13 employee welfare benefit plan within the meaning of ERISA, 29 U.S.C. Sections 1002 and 1003.
14 Defendant Kaiser Foundation Health Plan, Inc. is the Plan administrator within the meaning of
ERISA.

15 4. Plaintiff Allana Oliphant is, and at all relevant times was, a covered beneficiary under the
16 defendant Plan.

17 5. Plaintiff is, and at all relevant times has been and continues to be, totally disabled within
18 the meaning of the terms of the Plan.

19 6. Defendants have failed and refused to pay to plaintiff disability benefits to which she is
20 entitled under the terms of the Plan.

7. Plaintiff has fulfilled every condition and has duly performed each and every obligation
that she was required to perform under the terms of the Plan, and is and at all relevant times has
been entitled to payment of disability benefits under the terms and conditions of the Plan.

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8. Defendants have breached their obligations to plaintiff by failing to fulfill their obligations under the Plan and under the applicable provisions of ERISA, including but not limited to the obligation to pay disability benefits under the Plan, by unreasonably and wrongfully failing to conduct a proper investigation and review prior to denying payment of

1 plaintiff's benefits, and by failing to conduct a full and fair review of plaintiff's claim and the
2 denial of Plan benefits as required by ERISA.

3 9. As a direct and proximate result of defendants' conduct as alleged herein, plaintiff has
4 suffered and will continue to suffer losses compensable under ERISA, including but not limited
5 to loss of disability benefits, interest on those benefits, and attorneys' fees, and expenses.

6 WHEREFORE, plaintiff prays for judgment as set forth below.

7 **SECOND CLAIM FOR RELIEF**
8 [For Breach of Fiduciary Duty]

9 10. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1
10 through 9, inclusive, of this Complaint.

11 11. Defendants breached their fiduciary duties under ERISA by failing properly to
12 investigate and administer plaintiff's claim for disability benefits, by failing to provide a full and
13 fair review of plaintiff's appeal of the denial of Plan benefits, and by failing to administer the
14 Plan in accordance with the purposes of the Plan and for the exclusive benefit of its beneficiaries.

15 12. As a direct and proximate result of defendants' conduct as alleged herein, plaintiff has
16 suffered and will continue to suffer losses compensable under ERISA, including but not limited
17 to loss of disability benefits, interest on those benefits, and attorneys' fees and expenses.

18
19 **THIRD CLAIM FOR RELIEF**
20 [For Statutory Penalties]

21 13. Plaintiff realleges and incorporates by this reference the allegations of paragraphs 1
22 through 12, inclusive, of this Complaint.

23 14. Plaintiff, through her designated representatives, duly requested that the Plan and its
24 Administrator provide documents and information in accordance with their obligations under
25 ERISA. Defendants failed and refused to do so for more than 30 days, up to and including the
26 present time.

27 WHEREFORE, plaintiff prays for judgment as follows:

28 1. For benefits due under the Plan;

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2. For a declaration regarding plaintiff's rights to future benefits under the Plan;
3. For such equitable relief as the Court deems just and proper;
4. For prejudgment interest;
5. For statutory penalties against defendants under ERISA;
6. For attorneys' fees, costs and expenses; and
7. For such other and further relief as the Court deems just and proper.

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9 Dated: September 18, 2007

JULIAN M. BAUM
ROBERT C. WEEMS
BAUM & WEEMS

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11 by /s/ by Julian M. Baum

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13 JULIAN M. BAUM
14 Attorneys for Plaintiff

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